

293–6498 or contact the Bureau of the Census, Income Statistics Branch, Housing and Economic Statistics Division, Washington D.C. 20233–8500.

*Metropolitan statistical area* means an area as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986, (Title 26 of the United States Code).

*Non-metropolitan* has the meaning used by the Bureau of the Census, United States Department of Commerce, in its publication titled, “1990 Census of Population, Social and Economic Characteristics,” Report Number CP–2, page A–9. This publication is available for inspection at any local Federal Depository Library. For the location of a Federal Depository Library, call toll-free (888) 293–6498 or contact the Bureau of the Census, Population Distribution Branch, Population Division, Washington D.C. 20233–8800.

*Person* means a natural person. Pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1626(e), Alaska Native Corporations and any direct or indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation are deemed to be owned and controlled by Natives, and are thus persons.

*Principal office* means the location where the greatest number of the concern’s employees at any one location perform their work.

*Qualified census tract* has the meaning given that term in section 42(d)(5)(C)(ii)(I) of the Internal Revenue Code (Title 26 of the United States Code).

*Qualified HUBZone SBC* means a HUBZone SBC that SBA certifies as qualified for federal contracting assistance under the HUBZone program.

*Qualified non-metropolitan county* means any county that:

- (1) Based on the most recent data available from the Bureau of the Census of the Department of Commerce—
  - (i) Is not located in a metropolitan statistical area; and
  - (ii) In which the median household income is less than 80 percent of the non-metropolitan State median household income; or
- (2) Based on the most recent data available from the Secretary of Labor, has an unemployment rate that is not less than 140 percent of the statewide

average unemployment rate for the State in which the county is located.

*Reside* means to live in a primary residence at a place for at least 180 days, or as a currently registered voter, and with intent to live there indefinitely.

*Small disadvantaged business* (SDB) means a concern that is small pursuant to part 121 of this title, and is owned and controlled by socially and economically disadvantaged individuals, tribes, Alaska Native Corporations, Native Hawaiian Organizations, or Community Development Corporations.

*Statewide average unemployment rate* is the rate based on the most recent data available from the Bureau of Labor Statistics, United States Department of Labor, Division of Local Area Unemployment Statistics, 2 Massachusetts Ave., NE., Room 4675, Washington, D.C. 20212. A copy is also available at SBA, Office of AA/HUB, 409 3rd Street, SW., Washington DC 20416.

*Women-owned business* (WOB) means a concern that is small pursuant to part 121 of this title, and is at least 51 percent owned and controlled by women.

## Subpart B—Requirements to be a Qualified HUBZone SBC

### § 126.200 What requirements must a concern meet to receive SBA certification as a qualified HUBZone SBC?

(a) The concern must be a HUBZone SBC as defined in § 126.103; and

(b) At least 35 percent of the concern’s employees must reside in a HUBZone, and the HUBZone SBC must certify that it will attempt to maintain this percentage during the performance of any HUBZone contract it receives. When determining the percentage of employees that reside in a HUBZone, if the percentage results in a fraction round up to the nearest whole number,

*Example 1:* A concern has 25 employees, 35 percent or 8.75 employees must reside in a HUBZone. Thus, 9 employees must reside in a HUBZone.

*Example 2:* A concern has 95 employees, 35 percent or 33.25 employees must reside in a HUBZone. Thus, 34 employees must reside in a HUBZone.

and

(c) The HUBZone SBC must certify that it will ensure that it will comply with certain contract performance requirements in connection with contracts awarded to it as a qualified HUBZone SBC, as set forth in § 126.700.

**§ 126.201 For this purpose, who does SBA consider to own a HUBZone SBC?**

An owner of a HUBZone SBC is a person who owns any legal or equitable interest in such HUBZone SBC. More specifically:

(a) *Corporations.* SBA will consider any person who owns stock, whether voting or non-voting, to be an owner. SBA will consider options to purchase stock to have been exercised. SBA will consider the right to convert debentures into voting stock to have been exercised.

(b) *Partnerships.* SBA will consider a partner, whether general or limited, to be an owner if that partner owns an equitable interest in the partnership.

(c) *Sole proprietorships.* The proprietor is the owner.

(d) *Limited liability companies.* SBA will consider each member to be an owner of a limited liability company.

*Example 1:* All stock of a corporation is owned by U.S. citizens. The president of the corporation, a non-U.S. citizen, owns no stock in the corporation, but owns options to purchase stock in the corporation. SBA will consider the option exercised, and the corporation is not eligible to be a qualified HUBZone SBC.

*Example 2:* A partnership is owned 99.9 percent by persons who are U.S. citizens, and 0.1 percent by someone who is not. The partnership is not eligible because it is not 100 percent owned by U.S. citizens.

**§ 126.202 Who does SBA consider to control a HUBZone SBC?**

Control means both the day-to-day management and long-term decision-making authority for the HUBZone SBC. Many persons share control of a concern, including each of those occupying the following positions: officer, director, general partner, managing partner, and manager. In addition, key employees who possess critical licenses, expertise or responsibilities re-

lated to the concern's primary economic activity may share significant control of the concern. SBA will consider the control potential of such key employees on a case by case basis.

**§ 126.203 What size standards apply to HUBZone SBCs?**

(a) *At time of application for certification.* A HUBZone SBC must meet SBA's size standards for its primary industry classification as defined in § 121.201 of this title. If SBA is unable to verify that a concern is small, SBA may deny the concern status as a qualified HUBZone SBC, or SBA may request a formal size determination from the responsible Government Contracting Area Director or designee.

(b) *At time of contract offer.* A HUBZone SBC must be small within the size standard corresponding to the SIC code assigned to the contract.

**§ 126.204 May a qualified HUBZone SBC have affiliates?**

Yes. A qualified HUBZone SBC may have affiliates so long as the affiliates are also qualified HUBZone SBCs, 8(a) participants, or WOBs.

**§ 126.205 May WOBs, 8(a) participants or SDBs be qualified HUBZone SBCs?**

Yes. WOBs, 8(a) participants, and SDBs can qualify as HUBZone SBCs if they meet the additional requirements in this part.

**§ 126.206 May non-manufacturers be qualified HUBZone SBCs?**

Yes. Non-manufacturers (referred to in the HUBZone Act of 1997 as "regular dealers") may be certified as qualified HUBZone SBCs if they meet all the requirements set forth in § 126.200 and they can demonstrate that they can provide the product or products manufactured by qualified HUBZone SBCs. "Non-manufacturer" is defined in § 121.406(b)(1) of this title.

**§ 126.207 May a qualified HUBZone SBC have offices or facilities in another HUBZone or outside a HUBZone?**

Yes. A qualified HUBZone SBC may have offices or facilities in another HUBZone or even outside a HUBZone and still be a qualified HUBZone SBC.